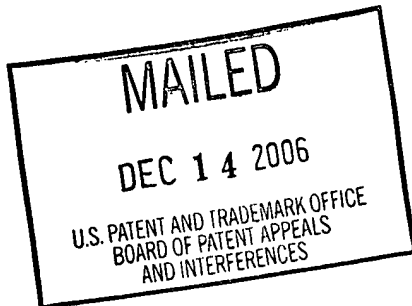


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte YOSUKE KONAKA

Appeal No. 2006-1215
Application No. 09/781,324

HEARD: MAY 11, 2006

Before MARTIN, JERRY SMITH, and BARRY, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellant requests that we reconsider our decision of June 7, 2006 wherein we sustained the rejection of claims 1-42 as being unpatentable under 35 U.S.C. § 103.

We have reconsidered our decision of June 7, 2006 in light of appellant's comments in the Request for Rehearing, and we find no error therein. We, therefore, decline to make any changes in our prior decision for the reasons which follow.

Appellant's Request for Rehearing makes the following arguments:

However, Takizawa and Pole, either alone or in combination, do not teach or suggest a processing ability determination section to determine whether the power supplied from the remaining batteries is an electric power which needs to lower the processing ability as set forth in claim 1, for example.

Takizawa determines whether one of a plurality of battery packs provides a sufficient voltage. There is no

determination of whether to maintain a processing ability or lower the processing ability based on the available electric power provided by the batteries.

Pole uses a controller adapted to transition a component from a first performance mode to a lower activity state in response to a power management event. Pole discloses that depending on the desired power consumption, the system may be set to one of multiple performance states. For example, if the system is powered by a battery, the system is placed in a lower performance state to conserve power. Alternatively, if the system is powered by an AC outlet, the system may be placed in a high performance state in which additional heat dissipation devices may be activated.

Thus, Pole does not teach "a processing ability determination section responsive to the removal requirement for a battery from said removal requirement receipt section to determine whether a supplying possible electric power from the remaining batteries is an electric power capable of maintaining a processing ability or electric power which needs to lower the processing ability." Pole does not contemplate a situation where one or more of a plurality of batteries is removed, while processing is carried on with the remaining batteries [Request, page 2].

The decision specifically addressed these arguments at page 8 wherein we stated the following:

Takizawa clearly teaches a processing ability determination section responsive to the removal requirement for a battery. In Figure 6 for example, Takizawa teaches that when a first battery is to be removed, a determination is made as to whether the voltage of the other battery is sufficient to continue to operate the device (S56). If the voltage of the other battery is sufficient, then power to the device is switched to the other battery (S60). If the voltage of the other battery is not sufficient to power the device, however, the device is turned off (S62). Thus, in our view, Takizawa teaches the invention of claim 1 except that Takizawa turns the device off rather than keeping the device operative under a lower processing ability.

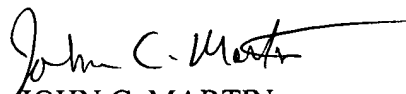
Thus, appellant's bare statement in the Request for Rehearing that Takizawa fails to determine whether to maintain a processing ability or lower the processing ability based on the available electric power provided by the batteries is clearly contradicted by the teachings of Takizawa as discussed in the original decision. As also discussed in the decision, although Takizawa chooses between maintaining power and turning the power off, Pole teaches that a lower power mode can be selected rather than turning the power completely off. Thus, appellant's arguments in the Request for Rehearing fail to persuade us of error in the original decision. Appellant's mere citation of several cases at the end of the Request for Rehearing fails to explain how the original decision in this case is incorrect based on any of the cited cases.


We have carefully considered the arguments raised by appellant in the Request for Rehearing, but we can find no errors in our original decision. We are still of the view that the invention set forth in claims 1-42 is unpatentable under 35 U.S.C. § 103 for the reasons discussed in the original decision.

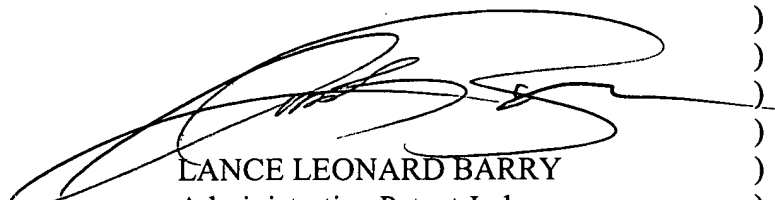
We have granted appellant's request to the extent that we have reconsidered our decision of June 7, 2006, but we deny the request with respect to making any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

REHEARING DENIED


JOHN C. MARTIN
Administrative Patent Judge


JERRY SMITH
Administrative Patent Judge


LANCE LEONARD BARRY
Administrative Patent Judge

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